

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #4	CCRB Case #: 201907230	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 04/28/2019 4:24 PM, Monday, 04/29/2019 2:00 AM	Location of Incident: [REDACTED]	Precinct: 61	18 Mo. SOL 10/28/2020	EO SOL 6/14/2021	
Date/Time CV Reported Wed, 08/14/2019 3:48 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 08/14/2019 3:48 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Osman Waheed	00636	960064	061 PCT
2. POM James Oneill	03160	963672	061 PCT
3. POM Luis Checo	03843	964438	061 PCT
4. POF Alyssa Marinaro	20113	964341	061 PCT
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Smithu Samuel	02294	933322	061 PCT
2. POM Emad Hawatmeh	16112	960644	BKLN CT
3. POF Stephanie Beplat	02854	963399	061 PCT
4. POM Sheldon Maxwell	23090	960089	061 PCT
5. POM Richard Carolina	07705	963433	061 PCT
6. POM Joseph Cappabianca	23685	963897	061 PCT
7. POF Bianca Randazzo	01554	966296	061 PCT
8. POF Beatrice Slavescu	13086	966346	061 PCT
9. POM Ali Abudayeh	26113	963831	061 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Osman Waheed	Force: On April 28, 2019, in front of § 87(2)(b) in Brooklyn, Police Officer Osman Waheed used physical force against § 87(2)(b)	[REDACTED]
B.POM James Oneill	Force: On April 28, 2019, in front of § 87(2)(b) in Brooklyn, Police Officer James Oneill used physical force against § 87(2)(b)	[REDACTED]
C.POM James Oneill	Abuse: On April 28, 2019, in front of § 87(2)(b) in Brooklyn, Police Officer James Oneill threatened § 87(2)(b) with the use of force.	[REDACTED]
D. Officers	Force: On April 28, 2019, in front of § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b)	[REDACTED]
E. Officers	Abuse: On April 28, 2019, at the 61st Precinct stationhouse, officers searched § 87(2)(b)'s recording device.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
F.POF Alyssa Marinaro	Abuse: On April 29, 2019, at Brooklyn Central Booking, Alyssa Marinaro threatened § 87(2)(b) with the use of force.	
G.POF Alyssa Marinaro	Force: On April 29, 2019, at Brooklyn Central Booking, Police Officer Alyssa Marinaro used physical force against § 87(2)(b)	
H.POM Luis Checo	Force: On April 29, 2019, at Brooklyn Central Booking, Police Officer Luis Checo used physical force against § 87(2)(b)	
I. Officers	Force: On April 29, 2019, at Brooklyn Central Booking, officers used physical force against § 87(2)(b)	

Case Summary

On August 14, 2019, § 87(2)(b) filed this complaint online at the CCRB website.

On April 28, 2019, at approximately 4:24 p.m. in front of § 87(2)(b) in Brooklyn, Police Officer Osman Waheed and Police Officer James Oneill, of the 61st Precinct, pulled § 87(2)(b) over for a broken taillight. § 87(2)(b) refused to provide her identification. PO Waheed pulled § 87(2)(b) out of the vehicle (**Allegation A: Force**, § 87(2)(g)). PO Oneill allegedly punched § 87(2)(b) in the face (**Allegation B: Force**, § 87(2)(g)). PO Oneill told § 87(2)(b) he would tase her (**Allegation C: Abuse of Authority**, § 87(2)(g)).

Additional officers from the 61st Precinct arrived at the location. Officers allegedly dragged § 87(2)(b) backwards to a police vehicle, threw her on the ground, and punched and kicked her (**Allegation D: Force**, § 87(2)(g)). § 87(2)(b) was then transported to the 61st Precinct stationhouse.

At the 61st Precinct stationhouse, officers allegedly searched dash camera footage that recorded the incident (**Allegation E: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was then transported to Brooklyn Central Booking.

At Brooklyn Central Booking, § 87(2)(b) refused to be processed or taken to the hospital. Police Officer Alyssa Marinaro, of the 61st Precinct, allegedly told § 87(2)(b) that she could “go the easy way or would be forced” (**Allegation F: Abuse of Authority**, § 87(2)(g)). PO Marinaro, Police Officer Luis Checo, also of the 61st Precinct, and unidentified officers allegedly threw § 87(2)(b) to the ground, put their feet on her chest, and punched and kicked her (**Allegation G: Force**, § 87(2)(g)) (**Allegation H: Force**, § 87(2)(g)) (**Allegation I: Force**, § 87(2)(g)). § 87(2)(b) was then transported to § 87(2)(b) Hospital.

§ 87(2)(b) was arrested for and charged with Resisting Arrest, Obstruction of Governmental Administration, Disorderly Conduct, and Insufficient Tail Lamp (Board Review 01).

The investigation obtained body-worn cameras (BWC) footage of PO Waheed (Board Review 02, 03), PO Oneill (Board Review 04, 05), and PO Maxwell (Board Review 06) that captured a portion of this incident.

Findings and Recommendations

Allegation (A) Force: On April 28, 2019, in front of § 87(2)(b) in Brooklyn,

Police Officer Osman Waheed used physical force against § 87(2)(b)

Allegation (B) Force: On April 28, 2019, in front of § 87(2)(b) in Brooklyn, Police

Officer James Oneill used physical force against § 87(2)(b)

Allegation (C) Abuse of Authority: On April 28, 2019, in front of § 87(2)(b) in

Brooklyn, Police Officer James Oneill threatened § 87(2)(b) with the use of force.

It is undisputed that PO Waheed and PO Oneill pulled § 87(2)(b) over for a defective brake light. It is undisputed that the officers explained the reason for the stop and requested § 87(2)(b)'s identification. It is undisputed that § 87(2)(b) did not provide her identification. § 87(2)(b) (Board Review 07) testified that she opened the car door because the window was not working. § 87(2)(b) told PO Waheed that she did not have her identification and stated that she was going to call 911. PO Waheed snatched the phone out of her hand, grabbed § 87(2)(b)'s wrist, and attempted to pull her out of the vehicle. § 87(2)(b) held onto the steering wheel. PO Oneill entered the car on the passenger side pushed § 87(2)(b) and then punched her in the face. PO Oneill also said, “Let go of the steering wheel or I am going to tase you.” PO Waheed eventually pulled § 87(2)(b) out of the vehicle and to the ground face-first.

PO Waheed's BWC captured his initial interaction with § 87(2)(b) (Board Review 02) (Board Review 03). In his first BWC clip (Board Review 02), from 00:00 to 01:54, PO Waheed

approaches the driver side of § 87(2)(b) vehicle. § 87(2)(b) tells PO Waheed she is going to sue, she did not do anything wrong, and that she is not going to show him anything. PO Waheed tells § 87(2)(b) he wants to verify her information and asks for her information multiple times. § 87(2)(b) says she will not provide it and that if he wants to arrest her, he can. Between 02:03 and 04:47, PO Waheed orders § 87(2)(b) to step out of the vehicle approximately 10 times. PO Oneill approaches the driver's side and tells § 87(2)(b) that if she gives them her identification, it will just be a traffic stop. § 87(2)(b) replies, "Kiss my fucking ass and fuck you." PO Oneill returns to the passenger side of the car. Between 05:15 and 05:22, PO Waheed reaches into § 87(2)(b)'s vehicle and pulls her arm and her ankle to get her out of the vehicle.

In PO Waheed's second BWC clip (Board Review 03), as PO Waheed attempts to pull § 87(2)(b) from her vehicle, § 87(2)(b) leans away from him and holds onto the steering wheel.

PO Oneill's BWC footage is consistent with PO Waheed's BWC, with the exception of the force he used against § 87(2)(b) (Board Review 04, 05). PO Oneill's first BWC clip (Board Review 04), from 04:13 to 04:39, captures PO Waheed reaching into § 87(2)(b)'s vehicle. PO Oneill returns to the passenger side and opens the passenger door. His camera is blurry. § 87(2)(b) is screaming. PO Oneill says, "Ma'am you're about to get tased."

In PO Oneill's second BWC clip (Board Review 05), from the beginning to 01:05, a struggle between PO Oneill and § 87(2)(b) ensues inside of her vehicle. PO Oneill steps back and tells § 87(2)(b) to stop reaching around. PO Oneill reenters the vehicle and the struggle continues. The BWC does not capture the actions of PO Oneill or § 87(2)(b). From 01:06 to 01:36, § 87(2)(b) screams, "He punched me!" PO Oneill says, "She is about to get tased...if you don't get out of the car you are getting tased. That's it." § 87(2)(b) is then on the ground outside of the car. It is unclear how she got to the ground. PO Waheed and PO Oneill attempt to handcuff her. No additional force is captured in this video.

§ 87(2)(g)
§ 87(2)(b) PO Waheed grabbed § 87(2)(b)'s arm and tried to pull her out of the car. § 87(2)(b) immediately pulled her arm back in the opposite direction, moved further into the car, and laid down in the front two seats. PO Waheed pulled § 87(2)(b)'s leg but was unsuccessful, so he pulled her arm again. PO Waheed could not see PO Oneill because § 87(2)(b) was obstructing his view, but PO Oneill also attempted to push § 87(2)(b) out of the car from the passenger side. § 87(2)(b) held onto the steering wheel. The officers eventually pulled § 87(2)(b) out of the car. PO Waheed did not see PO Oneill punch § 87(2)(b) in the face. § 87(2)(b) fell to the ground. PO Oneill went through the middle of the vehicle and got § 87(2)(b), § 87(2)(g)

§ 87(2)(b) PO Oneill entered the passenger side of the car and pushed § 87(2)(b)'s shoulders towards PO Waheed who was attempting to pull her out of the car from the driver's side. PO Oneill had a difficult time moving § 87(2)(b) because she was a large woman (approximately 350 pounds and 6' tall). PO Oneill did not punch § 87(2)(b) in the face. PO Oneill told § 87(2)(b) that she was going to be tased if she did not exit the vehicle. PO Oneill made this statement because he was unsuccessful in removing her and she exhibited noncompliant behavior by holding onto the steering wheel and flailing her arms towards PO Oneill. PO Oneill dug his feet into the ground and continued to push § 87(2)(b) until she was out of the car on the driver's side. As § 87(2)(b) fell to the ground, PO Oneill traveled through the center of the vehicle and landed on top of her.

In PO Waheed and PO Oneill's TRI reports § 87(2)(b) and (# § 87(2)(b)) both officers acknowledged forcibly taking § 87(2)(b) to the ground, which is consistent with their testimonies (Board Review 10).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person...in all circumstances, any

application of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, members of the service should consider the actions taken by the subject, the duration of the action, whether the subject is actively resisting custody, and the size, age, and condition of the subject compared to the member of service (Board Review 11).

NYPD Patrol Guide Procedure 221-02 defines active resisting as physically evasive movements to defeat a member of service's attempt to control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into custody (Board Review 12).

NYPD Patrol Guide Procedure 221-08 states that a conducted electrical device (CEW) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) present (Board Review 13).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (D) Force: On April 28, 2019, in front of § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b)

§ 87(2)(b) stated that approximately nine to ten additional officers arrived at the location and assisted in handcuffing § 87(2)(b). § 87(2)(b) could not describe the additional officers because she could not see them clearly. The officers then dragged § 87(2)(b) backwards to a police car. The officers threw § 87(2)(b) to the ground next to the vehicle and punched and kicked her arms. The officers then got on top of § 87(2)(b).

In PO Oneill's second BWC (Board Review 05), between 01:55 and 04:55, additional officers arrive. § 87(2)(b) remains on the ground. Officers stand § 87(2)(b) up and walk her to another police car. § 87(2)(b) continues to yell and curse at the officers. Officers place § 87(2)(b) inside the police car. Between 05:55 and 14:41, PO Oneill and PO Waheed transport § 87(2)(b) to the 61st Precinct stationhouse.

PO Maxwell's BWC (Board Review 06), from the beginning to the end (04:41), shows PO Maxwell arrive at the location as PO Oneill and PO Waheed attempt remove § 87(2)(b) from her vehicle. § 87(2)(b) is pushed out from the passenger side by PO Oneill. PO Oneill travels through the front seats of the car (from the passenger side) and lands on top of her. § 87(2)(b) is handcuffed. This portion of the incident is consistent with PO Waheed and PO Oneill's BWC in that the officers stand over § 87(2)(b). The officers then stand her up and walk her to a police vehicle. There is no additional force captured in this video.

§ 87(2)(b), § 87(2)(g)

Allegation (E) Abuse of Authority: On April 28, 2019, at the 61st Precinct stationhouse, officers searched § 87(2)(b) s recording device.

§ 87(2)(b) (Board Review 07) testified that she observed officers looking at her personal dashboard camera that was in her vehicle while she was in a holding cell at the stationhouse. § 87(2)(b) could not describe the officers that searched the dashboard camera.

PO Waheed (Board Review 08) testified that he searched § 87(2)(b) s vehicle at the station house and vouchered money, general property, the vehicle itself, and a dashboard camera. The dashboard camera was vouchered as “arrest evidence.” PO Waheed did not view the footage on the dashboard camera, nor did he see any other officer do so, because he did not have a warrant to search it. The dashboard camera was never in § 87(2)(b) s presence at the stationhouse because he did not remove it until he vouchered the vehicle later that evening. No other officers had access to any of the vouchered items.

PO Oneill (Board Review 09) did not see the dashboard camera in the stationhouse at any point. PO Oneill did not search § 87(2)(b) s dashboard camera, nor he did not see any other officer do so.

PO Waheed prepared invoices § 87(2)(b) for § 87(2)(b) s dashboard camera, listed as arrest evidence, on April 29, at approximately 12:43 a.m. (Board Review 14).

§ 87(2)(b), § 87(2)(g)

Allegation (F) Abuse of Authority: On April 29, 2019, at Brooklyn Central Booking, Alyssa Marinaro threatened § 87(2)(b) with the use of force.

Allegation (G) Force: On April 29, 2019, at Brooklyn Central Booking, Police Officer Alyssa Marinaro used physical force against § 87(2)(b)

Allegation (H) Force: On April 29, 2019, at Brooklyn Central Booking, Police Officer Luis Checo used physical force against § 87(2)(b)

Allegation (I) Force: On April 29, 2019, at Brooklyn Central Booking, officers used physical force against § 87(2)(b)

§ 87(2)(b) (Board Review 07) testified that at Brooklyn Central Booking (BCB), PO Marinaro came into the holding cell and informed § 87(2)(b) that she was going to be taken to the hospital for a § 87(2)(b) and that she “could be taken the nice way or she would be forced.” § 87(2)(b) refused to go to the hospital. PO Marinaro called for other officers to come and assist her. PO “Pierre” and PO “Charles,” whom § 87(2)(b) identified via their name plates, entered the cell. Officers handcuffed § 87(2)(b) and threw her to the ground. The officers then put their feet on § 87(2)(b) s chest, punched, and kicked her. Officers lifted § 87(2)(b) up and pulled her arms apart behind her back. The officers dragged § 87(2)(b) to a different holding cell and threw her inside where she fell to the ground in a puddle of urine.

PO Marinaro (Board Review 15) testified that she arrived at BCB and spoke with a Sergeant who decided that § 87(2)(b) needed to go to the hospital. PO Marinaro approached the cell and observed that § 87(2)(b) was uncuffed and standing near the door. PO Marinaro entered the cell to handcuff § 87(2)(b) but she refused to be taken to the hospital and kept yelling that it was “their fault.” PO Marinaro exited the cell and informed the BCB Sergeant that § 87(2)(b) was being uncooperative. The Sergeant summoned two other officers to assist in handcuffing § 87(2)(b). As PO Marinaro entered the cell the second time, § 87(2)(b) sat down on the bench and turned away from her. § 87(2)(b) continued to yell and moved her arms away from PO

Marinaro every time she attempted to handcuff her. PO Marinaro, PO Sturman (her partner), and three unidentified officers were inside of the cell. § 87(2)(b) was then taken to the ground and handcuffed. PO Marinaro could not recall if she participated in handcuffing § 87(2)(b) nor could she recall how § 87(2)(b) went from sitting on the bench to being on the ground. PO Marinaro did not kick § 87(2)(b) while she was on the ground nor did she see any other officers do so. PO Marinaro did not punch § 87(2)(b) while she was on the ground nor did she see any other officer do so. PO Marinaro could not recall if she or other officers put their feet on § 87(2)(b)'s chest while she was on the ground. PO Marinaro could not recall if she informed § 87(2)(b) that if she did not become compliant, she would be “forced” out of the cell.

PO Checo (Board Review 16) testified that he entered the cell. § 87(2)(b) yelled that she did not want to go to the hospital and demanded that the officers not touch her. PO Checo stood behind other officers as they took § 87(2)(b) to the ground and handcuffed her. PO Checo did not see how § 87(2)(b) was taken to the ground. PO Checo did not participate in the handcuffing of § 87(2)(b). Once § 87(2)(b) was on the ground, PO Checo helped lift § 87(2)(b) off the ground by wrapping his arm around § 87(2)(b)'s arm and shoulder for support. PO Checo did not and did not see any officer kick, punch, or put his feet on § 87(2)(b). PO Checo did not hear any officers threaten § 87(2)(b) with the use of force at any point during their interaction.

PO Frantzy Pierre-Louis (Board Review 21), assigned to the 61st Precinct and PO Evens Pierre-Louis (Board Review 17), assigned to Brooklyn Central Booking, were interviewed. Both were shown a photograph of § 87(2)(b) and were provided a description of the incident. Neither officer recalled this incident. Both officers denied hearing an officer threaten § 87(2)(b) with the use of force. PO Frantzy Pierre-Louis denied kicking, punching, or stepping on § 87(2)(b) and denied seeing any officer doing so. PO Evens Pierre-Louis did not recall threatening or hearing any officer threatening § 87(2)(b) with the use of force. PO Evens Pierre-Louis did not recall kicking, punching, or stepping on § 87(2)(b) and did not recall seeing any officer doing so.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Waheed has been a member-of-service for four years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. PO Waheed's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- PO Oneill has been a member-of-service for three years and this is the first CCRB complaint to which he has been a subject.
- PO Checo has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Marinaro has been a member-of-service for three years and this is the first CCRB complaint to which she has been a subject.
- PO Pierrelouis has been a member-of-service for 16 years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On July 25, 2019, § 87(2)(b) filed a Notice of Claim with the City of New York claiming emotional and physical distress and seeking \$256,000,000.00 as redress. There is no 50H hearing scheduled (Board Review 19).
- § 87(2)(b)

Squad No.: 4

Investigator:	<u>Charis Jones</u>	<u>Investigator Charis Jones</u>	<u>09/08/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>09/08/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date